

U.S. Department of Justice  
United States Marshals Service

## PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF NEXxUS PRODUCTS COMPANY, INC.		COURT CASE NUMBER C1-85-1609
DEFENDANT DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		TYPE OF PROCESS Seizure
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN DRUG EMPORIUM	
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 485 East Kemper Road Cincinnati, Ohio	
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285 --
Thomas L. Katuz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of parties to be served in this case 8
		Check for service on U.S.A. --

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Fold

Fold

Seizure of all products and documents bearing, referring or relating to the Plaintiff's trade name and trademarks including "NEXxUS", "THERAPPE", "ASSURE", "HUMECTRESS", "NATURE AND EARTH UNITED WITH SCIENCE", "KERAPHIX" and "BOTANOIL".

*Thomas L. Katuz*

Signature of Attorney or other Originator requesting service on behalf of:

☒ PLAINTIFF  
☐ DEFENDANT

TELEPHONE NUMBER

241-2324

DATE

Thomas L. Katuz

## SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No.	District to Serve No.	Signature of Authorized USMS Deputy or Clerk	Date
				<i>[Signature]</i>	10-7-85

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

LARRY KORSNAK; MANAGER

Address (complete only if different than shown above)

SAME AS ABOVE

Service Fee	Total Mileage Charges (including endeavors)	DEPUTY FEE Forwarding Fee	Total Charges	Cash/Deposit	Amount owed to U.S. Marshal or	Amount of Refund
3.00	86.60	12.00	21.60	N/S		

REMARKS:

ITEMS SEIZED WERE.

FOUR BOTTLES OF NEXxUS KERAPHIX  
FIVE PAGES OF INFO ON NEXxUS INCLUDING ORDER # FLO12485-10

DEPUTY U.S. MARSHAL FEE = 3.00 PER HOUR

4 HOURS X 3.00 = 12.00



**INSTRUCTIONS FOR SERVICE OF  
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Please type or print legibly, insuring readability of all copies. DO NOT DETACH ANY COPIES.

Submit one complete set of this form (USM-285) and one copy of each writ for each individual, company, corporation, etc., to be served or property to be seized or condemned. The applicable fees for such service(s) (T28, USC Sec. 1921 establishes the fees for service of process by the U.S. Marshal) may be required prior to said service.

For service of any process upon an officer or agent of the United States Government, submit a copy of the writ and a set of Form USM-285 for each officer or agent upon whom service is desired. Submit three (3) additional copies of the writs for service upon the Government of the United States. The U.S. Marshal will serve one (1) upon the U.S. Attorney and will forward two (2) to the Attorney General of the United States. (When the applicable box is checked, completion of the final signature block by the U.S. Marshal or his Deputy always certifies service on the U.S. Attorney and the Attorney General, regardless of whether other defendants on the writ were served.) Failure to provide any of the copies will delay service of the writ.

Complete all entries above the double line. Mark all applicable check boxes and use the "Special Instructions" to advise of any information that will assist the U.S. Marshal in expediting service.

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U.S. Department of Justice  
United States Marshals Service

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PLAINTIFF		COURT CASE NUMBER	
NEXxUS PRODUCTS COMPANY, INC.		Cl-85-1609	
DEFENDANT		TYPE OF PROCESS	
DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		Seizure	
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN		
	DRUG EMPORIUM		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)		
	7760 Olen Tangy River Road		
	Worthington, Ohio		
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	--
Thomas L. Kautz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of parties to be served in this case	8
		Check for service on U.S.A.	--

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

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Fold

Seizure of all products and documents bearing, referring or relating to the Plaintiff's trade name and trademarks including "NEXxUS", "THERAPPE", "ASSURE", "HUMECTRESS", "NATURE AND EARTH UNITED WITH SCIENCE", "KERAPHIX" and "BOTANOIL".

*Thomas L. Kautz*

Signature of Attorney or other Originator requesting service on behalf of:

☒ PLAINTIFF  
☐ DEFENDANT
TELEPHONE NUMBER  
241-2324

DATE

Thomas L. Kautz

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		No.	No.		

*Ju*

10-7-85

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☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

*PHILIP WILBER, PRESIDENT*

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Address (complete only if different than shown above)

Date of Service: 10-8-85 Time: 10:15 am

Signature of U.S. Marshal or Deputy

*John Grant*

Service Fee	Total Mileage Charges (including endeavors)	*DEPUTY FEE Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
3.00	37.96	66.00	106.96			

REMARKS:

ITEMS SEIZED:

THREE PAGE INFORMATION OF ADVISEMENT ON

NEXxUS PRODUCT

\*DEPUTY U.S. MARSHAL FEE = \$3.00 PER HOUR

22 HOURS X \$3.00 = \$66.00



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For service of any process upon an officer or agent of the United States Government, submit a copy of the writ and a set of Form USM-285 for each officer or agent upon whom service is desired. Submit three (3) additional copies of the writs for service upon the Government of the United States. The U.S. Marshal will serve one (1) upon the U.S. Attorney and will forward two (2) to the Attorney General of the United States. (When the applicable box is checked, completion of the final signature block by the U.S. Marshal or his Deputy always certifies service on the U.S. Attorney and the Attorney General, regardless of whether other defendants on the writ were served.) Failure to provide any of the copies will delay service of the writ.

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U.S. Department of Justice  
United States Marshals Service

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PLAINTIFF		COURT CASE NUMBER	
NEXxUS PRODUCTS COMPANY, INC.		C1-85-1609	
DEFENDANT		TYPE OF PROCESS	
DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		Seizure	
SERVE ➔ AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN		
	DRUG EMPORIUM		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)		
	5160 East Main Street		
	Columbus, Ohio		
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	--
Thomas L. Kautz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of parties to be served in this case	8
		Check for service on U.S.A.	--

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Fold

Fold

Seizure of all products and documents bearing, referring or relating to the Plaintiff's trade name and trademarks including "NEXxUS", "THERAPPE", "ASSURE", "HUMECTRESS", "NATURE AND EARTH UNITED WITH SCIENCE", "KERAPHIX" and "BOTANOIL".

*Thomas L. Kautz*

Signature of Attorney or other Originator requesting service on behalf of:

☒ PLAINTIFF  
☐ DEFENDANT

TELEPHONE NUMBER

241-2324

DATE

Thomas L. Kautz

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				<i>JK</i>	10-7-85

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

*DANA SMITH, MANAGER*

Address (complete only if different than shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Date of Service: 10-8-85 Time: am pm

Signature of U.S. Marshal or Deputy

*D. E. Standing*

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
3.00			3.00			

REMARKS:

Seized: 20-Bottles OF 500 ML NEXUS HAIR PRODUCTS  
 1-BOTTLE OF 250 ML NEXUS HAIR PRODUCTS  
 44-BOTTLES OF 125 ML NEXUS HAIR PRODUCTS  
 1-INVOICE # 17093 " " "  
 1-INVOICE # 17108 " " "  
 1-INVOICE # 15937 " " "

\* MILEAGE & DUSH FEE  
 ON DRUG EMPORIUM,  
 7760 OLEN TANGY RIVER  
 RD. RETURN

PRIOR EDITIONS  
MAY BE USED

1. CLERK OF THE COURT

FORM USM-285 (Rev. 12/15/80)



**INSTRUCTIONS FOR SERVICE OF  
PROCESS BY THE U.S. MARSHAL**

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United States Marshals Service

## PROCESS RECEIPT AND RETURN

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PLAINTIFF NEXxUS PRODUCTS COMPANY, INC.		COURT CASE NUMBER C1-85-1609	
DEFENDANT DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		TYPE OF PROCESS Seizure	
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN DRUG EMPORIUM		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 221 Graceland Boulevard Columbus, Ohio		
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	--
Thomas L. Kautz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of parties to be served in this case	8
		Check for service on U.S.A.	--

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Fold

Fold

Seizure of all products and documents bearing, referring or relating to the Plaintiff's trade name and trademarks including "NEXxUS", "THERAPPE", "ASSURE", "HUMECTRESS", "NATURE AND EARTH UNITED WITH SCIENCE", "KERAPHIX" and "BOTANOIL".

Signature of Attorney or other Originator requesting service on behalf of: Thomas L. Kautz ☒ PLAINTIFF ☐ DEFENDANT TELEPHONE NUMBER 241-2324 DATE 10-7-85

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--	---------------	------------------------	-----------------------	---	--------------

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above) <u>BETSY JONES, MANAGER</u>	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode. Date of Service <u>10-8-85</u> Time <u>am</u> Signature of U.S. Marshal or Deputy <u>[Signature]</u>					
Address (complete only if different than shown above)						
Service Fee <u>3.00</u>	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges <u>3.00</u>	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund

REMARKS:

Items Seized:

14-Bottles of 500ml NEXUS HAIR SHAMPOO

1-Invoice # 17070 NEXUS HAIR PRODUCTS

\* MILEAGE &amp; OUSH FEE ON DRUG EMPORIUM, 7760 OLEN TANGY RIVER RD. RETURN



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U.S. Department of Justice  
United States Marshals Service**PROCESS RECEIPT AND RETURN**

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PLAINTIFF NEXxUS PRODUCTS COMPANY, INC.		COURT CASE NUMBER C1-85-1609	
DEFENDANT DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		TYPE OF PROCESS Seizure	
<b>SERVE</b> ➔ <b>AT</b>	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN DRUG EMPORIUM		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 240 North Wilson Road Columbus, Ohio		
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	--
Thomas L. Kautz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of parties to be served in this case	8
		Check for service on U.S.A.	--

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*Thomas L. Kautz*

Signature of Attorney or other Originator requesting service on behalf of: Thomas L. Kautz	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER 241-2324	DATE
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Name and title of individual served (if not shown above) <i>JIM WHITE, MANAGER</i>	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.
Address (complete only if different than shown above) <i>SAME</i>	Date of Service <i>10-8-85</i> Time <i>12:30</i> pm
Signature of U.S. Marshal or Deputy <i>Keith D. Grant</i>	

Service Fee <i>3.00</i>	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges <i>3.00</i>	Advance Deposits	Amount owed to U.S. Marshal, or	Amount of Refund
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REMARKS: *BELOW ITEMS SEIZED:*

*EIGHTY-FIVE BOTTLES OF NEXXUS HAIR PRODUCTS - 125 ML.  
FOUR BOTTLES OF NEXXUS HAIR PRODUCTS - 250 ML.  
TWENTY-FOUR BOTTLES OF NEXXUS HAIR PRODUCTS - 500 ML.  
ONE INVOICE #15987 CONCERNING NEXXUS*

*\* MILEAGE & OUSM FEE ON DRUG EMPORIUM, 7760 OLEN TANCY RIVER RD. RETURN*



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U.S. Department of Justice  
United States Marshals Service

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NEXxUS PRODUCTS COMPANY, INC.		C1-85-1609
DEFENDANT		TYPE OF PROCESS
DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		Seizure
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN	
	DRUG EMPORIUM	
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)	
	5685 Emporium Drive	
	Columbus, Ohio	
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		
Thomas L. Kautz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of process to be served with this Form - 285 --
		Number of parties to be served in this case 8
		Check for service on U.S.A. --

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Fold

Fold

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*Thomas L. Kautz*

Signature of Attorney or other Originator requesting service on behalf of: ☒ PLAINTIFF ☐ DEFENDANT TELEPHONE NUMBER 241-2324 DATE

Thomas L. Kautz

## SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No.	District to Serve No.	Signature of Authorized USMS Deputy or Clerk	Date
				<i>[Signature]</i>	10-7-85

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

Steve Michaelson, Manager

Address (complete only if different than shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Date of Service 10-8-85 Time am pm

Signature of U.S. Marshal or Deputy

*[Signature]*

Service Fee \$3.00	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges 3.00	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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## REMARKS:

Seized: 2 - 500 ML BOTTLES OF NEXUS HAIR SHAMPOO

1 - Invoice # 15938 - Nexus Hair Products

1 - Invoice # 17109 - Nexus Hair Products

1 - Invoice # 17074 - Nexus Hair Products

\* MILEAGE & DUSH FEE ON DRUG EMPORIUM, 7760 OLD TANGY RIVER RD. RETURN



**INSTRUCTIONS FOR SERVICE OF  
PROCESS BY THE U.S. MARSHAL**

Please type or print legibly, insuring readability of all copies. DO NOT DETACH ANY COPIES.

Submit one complete set of this form (USM-285) and one copy of each writ for each individual, company, corporation, etc., to be served or property to be seized or condemned. The applicable fees for such service(s) (T28, USC Sec. 1921 establishes the fees for service of process by the U.S. Marshal) may be required prior to said service.

For service of any process upon an officer or agent of the United States Government, submit a copy of the writ and a set of Form USM-285 for each officer or agent upon whom service is desired. Submit three (3) additional copies of the writs for service upon the Government of the United States. The U.S. Marshal will serve one (1) upon the U.S. Attorney and will forward two (2) to the Attorney General of the United States. (When the applicable box is checked, completion of the final signature block by the U.S. Marshal or his Deputy always certifies service on the U.S. Attorney and the Attorney General, regardless of whether other defendants on the writ were served.) Failure to provide any of the copies will delay service of the writ.

Complete all entries above the double line. Mark all applicable check boxes and use the "Special Instructions" to advise of any information that will assist the U.S. Marshal in expediting service.

If more than one writ and USM-285 is submitted on a single case, the U.S. Marshal will receipt for all of them on the first USM-285. You will receive for your records the last (No. 5) "Acknowledgment of Receipt" copy for all the USM-285 forms you submit. When the writ is served, you will receive the No. 3 Notice of Service copy. This copy will be identical to the return to the Clerk of the Court.

Upon completion of all services (if the Marshals fees were not requested or tendered in advance or if additional fees are indicated), you will receive a "Billing Statement" (copy 4 of USM-285) from the United States Marshal. (NOTE: Copy 4 should be returned, by you, to the U.S. Marshal, together with your payment of the amount owed.)

Additional supplies of the USM-285 may be obtained from the Clerk of the U.S. District Court or U.S. Marshal, without cost.



U.S. Department of Justice  
United States Marshals Service**PROCESS RECEIPT AND RETURN**See Instructions for "Service of Process by the U.S. Marshal"  
on the reverse of this form.

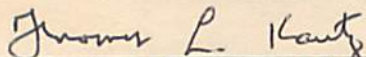
PLAINTIFF NEXxUS PRODUCTS COMPANY, INC.		COURT CASE NUMBER C1-85-1609	
DEFENDANT DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		TYPE OF PROCESS Seizure	
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN DRUG EMPORIUM		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 8251 Beechmont Avenue Cincinnati, Ohio		
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	--
Thomas L. Kautz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of parties to be served in this case	8
		Check for service on U.S.A.	--

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Fold

Fold

Seizure of all products and documents bearing, referring or relating to the Plaintiff's trade name and trademarks including "NEXxUS", "THERAPPE", "ASSURE", "HUMECTRESS", "NATURE AND EARTH UNITED WITH SCIENCE", "KERAPHIX" and "BOTANOIL".



Signature of Attorney or other Originator requesting service on behalf of:

☒ PLAINTIFF  
☐ DEFENDANT

TELEPHONE NUMBER

241-2324

DATE

Thomas L. Kautz

**SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE**

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk 	Date 10-7-85
		No.	No.		

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)

JIM SCHWEIDER, MANAGER

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Address (complete only if different than shown above)

SAME AS ABOVE

Date of Service 10-7-85 Time 11:15 am

Signature of U.S. Marshal or Deputy



Service Fee 3.00	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges 3.00	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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REMARKS:

NO NEXXUS HAIR PRODUCTS FOUND

MILEAGE &amp; DUSH CHARGES ON 485 E. KEMPER RD., CINTI. RETURN



**INSTRUCTIONS FOR SERVICE OF  
PROCESS BY THE U.S. MARSHAL**

Please type or print legibly, insuring readability of all copies. DO NOT DETACH ANY COPIES.

Submit one complete set of this form (USM-285) and one copy of each writ for each individual, company, corporation, etc., to be served or property to be seized or condemned. The applicable fees for such service(s) (T28, USC Sec. 1921 establishes the fees for service of process by the U.S. Marshal) may be required prior to said service.

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Additional supplies of the USM-285 may be obtained from the Clerk of the U.S. District Court or U.S. Marshal, without cost.



U.S. Department of Justice  
United States Marshals Service

## PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF NEXxUS PRODUCTS COMPANY, INC.		COURT CASE NUMBER C1-85-1609	
DEFENDANT DRUG EMPORIUM, INC. AND DOES I THROUGH XXV		TYPE OF PROCESS Seizure	
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN DRUG EMPORIUM		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 7792 Olen Tangy River Road Worthington, Ohio		
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:		Number of process to be served with this Form - 285	--
Thomas L. Kautz, Esq. Wood, Herron & Evans 2700 Carew Tower Cincinnati OH 45202		Number of parties to be served in this case	8
		Check for service on U.S.A.	--

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

Fold

Fold

Seizure of all products and documents bearing, referring or relating to the Plaintiff's trade name and trademarks including "NEXxUS", "THERAPPE", "ASSURE", "HUMECTRESS", "NATURE AND EARTH UNITED WITH SCIENCE", "KERAPHIX" and "BOTANOIL".

Signature of Attorney or other Originator requesting service on behalf of: Thomas L. Kautz ☒ PLAINTIFF ☐ DEFENDANT TELEPHONE NUMBER 241-2324 DATE 10-7-85

## SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

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				<i>[Signature]</i>	10-7-85

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☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in the defendant's usual place of abode.					
Address (complete only if different than shown above)	Date of Service	Time am pm				
	Signature of U.S. Marshal or Deputy					
Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund

REMARKS:

RETURN UNEXECUTED; NO LONGER AT THAT ADDRESS.  
*[Signature]*  
 10-8-85



**INSTRUCTIONS FOR SERVICE OF  
PROCESS BY THE U.S. MARSHAL**

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Additional supplies of the USM-285 may be obtained from the Clerk of the U.S. District Court or U.S. Marshal, without cost.



FILED  
KENNETH J. MURPHY  
CLERK

OCT 4 9 04 AM '85

IN THE UNITED STATES DISTRICT COURT ~~U.S. DISTRICT COURT~~  
SOUTHERN DISTRICT OF OHIO ~~SOUTHERN DIST. OHIO~~  
WESTERN DIVISION ~~WEST DIV. CINCINNATI~~

Mag.	_____
Journal	_____
Motion #	_____
Issue	_____
Card	_____
N/S	_____
Docketed	_____

NEXxUS PRODUCTS COMPANY, INC.,  
Plaintiff,

v.

DRUG EMPORIUM, INC. AND DOES I  
THROUGH XXV,

Defendants,

Civil Action

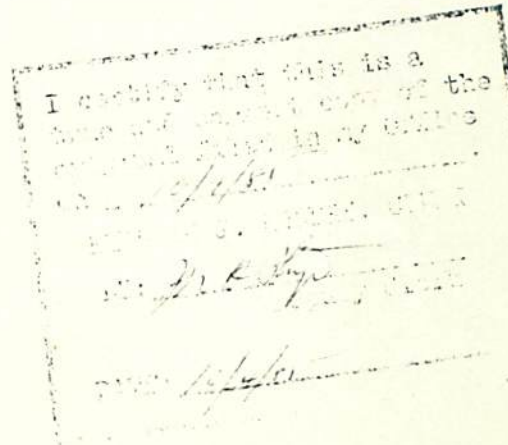
No. C1-85-1609

Judge Weber  
Cincinnati

Hawkins, Bikoff & Newton  
JAMES L. BIKOFF, ESQ.  
220 Montgomery Street  
Penthouse One  
San Francisco, CA 94104  
(415) 397-5631

Wood, Herron & Evans  
BRUCE TITTEL, ESQ.  
THOMAS L. KAUTZ, ESQ.  
2700 Carew Tower  
Cincinnati, Ohio 45202  
(513) 241-2324

Attorneys for Plaintiff  
NEXxUS Products Company, Inc.



TEMPORARY RESTRAINING AND SEIZURE ORDER;  
ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION;  
ORDER FOR SPECIAL APPOINTMENT TO EXECUTE SEIZURE;  
ORDER FOR LEAVE TO TAKE ACCELERATED DISCOVERY



Based upon the pleadings, moving papers and affidavits submitted herein, the Court finds that:

1. The security determined adequate by the Court for the payment of such damages as any person may be entitled to recover as a result of a wrongful seizure or wrongful attempted seizure is the amount of \$40,000.

2. An order other than an ex parte seizure order is not adequate to achieve the purposes of 15 U.S.C. 1114.

3. The plaintiff has not publicized the requested seizure.

4. The plaintiff is likely to succeed in showing that the person against whom seizure is ordered used a counterfeit mark in connection with the sale, offering for sale or distribution of goods.

5. An immediate and irreparable injury will occur if an ex parte seizure without notice is not ordered.

6. The matter to be seized will be located at the places identified in the application.

7. The harm to the plaintiff of denying the application outweighs the harm to the legitimate interests of the persons against whom seizure would be ordered of granting the application.

8. The person against whom seizure would be ordered, or person acting in concert with such persons, would destroy,



move, hide or otherwise make such matter inaccessible to the Court if the plaintiff was to proceed on notice to such persons.

9. Plaintiff manufactures and sells hair and skin care products under the product names "THERAPPE", "ASSURE" and "HUMECTRESS" (the "NEXxUS Products") under its "NEXxUS" trade name and trademark and registered trademark "NATURE & EARTH UNITED WITH SCIENCE", which is registered on the Principal Register of the United States Patent and Trademark Office as Registration No. 1,196,046.

10. The plaintiff has shown good cause for holding a hearing on the motion for preliminary injunction on October 17 and 18, 1985.

11. Plaintiff has complied with 15 U.S.C. §1116(d)(2) by notifying the United States Attorney for the Southern District of Ohio of plaintiff's intent to seek an ex parte seizure order against the defendants.

12. Defendants bought, offered for sale and sold hair and skin care products falsely bearing the "NEXxUS" trade name and trademarks referred to in the Complaint, and threaten to continue such acts unless immediately restrained by order of this Court; and

13. It appearing that, based upon past actions of other counterfeiters in the same position as defendants, that the hair or skin care products in question and/or documents relating to the source of such hair or skin care products will be removed



or destroyed as soon as a given defendant learns that a lawsuit is being filed, and notification is given to third-party suppliers, manufacturers and customers; and

14. It further appearing that the only effective method of preventing infringing "NEXxUS" hair or skin care products from being removed or destroyed and of preserving other possible relevant evidence is to issue an order allowing the seizure of such evidence without notice to the defendants herein; and

15. It further appearing to the Court that the aforesaid acts of the Defendants will cause immediate and irreparable injury, loss and damage to plaintiff, its trade name, trademarks and the valuable goodwill and reputation associated therewith and that such injury, loss and damage is more likely to be sustained by plaintiff if the defendants are given notice of this litigation prior to the issuance of the Temporary Restraining Order and Order of Seizure hereinafter specified and thereby given time to dispose of or move the hair or skin care products bearing or using the aforesaid trademarks, it is hereby

ORDERED, that defendants or their attorneys show cause before the Honorable Herman J. Weber, a Judge of this Court, in Courtroom 836 of the United States Courthouse, U.S. Post Office Building, Cincinnati, Ohio, on October 17 ~~1985~~ 1985, at 10:00 a.m. (the "OSC hearing"), or as soon thereafter as counsel can be heard, why an order should not be entered pursuant to Rules 30,



34, 64 and 65(a) of the Federal Rules of Civil Procedure granting plaintiff the following preliminary injunction relief:

(a) enjoining and restraining defendants and defendants' agents, servants, employees, successors and assigns, and all those acting in concert or participation with them from:

(i) using in any manner the "NEXxUS" trade name and trademark, the NEXxUS product names "THERAPPE", "THERAPY", "ASSURE", "HUMECTRESS", "KERAPHIX", and "BOTANOIL", and the trademark "NATURE & EARTH UNITED WITH SCIENCE" (all of which are hereinafter referred to collectively as "the NEXxUS Marks"), or each of them, alone or in combination with any other word or words, which so resemble any of the NEXxUS Marks so as to be likely to cause confusion, deception or mistake on or in connection with the advertising, offering for sale or sale of any hair or skin care product not manufactured, distributed or sold by plaintiff or not authorized by plaintiff to be sold in connection with any of the NEXxUS Marks;

(ii) passing off, inducing or enabling others to sell or pass off any product as a product produced by plaintiff, which is not plaintiff's or not produced under the control and supervision of plaintiff and approved by plaintiff for sale under any of the NEXxUS Marks as used on hair or skin care products;



(iii) committing any acts calculated to cause purchasers to falsely believe that defendants' products are those sold under the control and supervision of plaintiff, or sponsored by, approved or connected with, or guaranteed by, or produced under the control and supervision of plaintiff;

(iv) further diluting and infringing the rights of plaintiff in and to the NEXxUS Marks and damaging plaintiff's goodwill and business reputation;

(v) otherwise competing unfairly with plaintiff in any manner;

(vi) shipping, delivering, distributing, returning or otherwise disposing of in any manner, hair or skin care products or inventory thereof not manufactured by or for plaintiff, nor authorized by plaintiff to be sold or offered for sale, which bear any of the NEXxUS Marks;

(vii) manufacturing or using any tools, dies, stamping, mixing, embossing, silk screening, molding equipment, or any other apparatus or any and all formulations, designed especially for the manufacture or labeling of counterfeit products bearing any of the NEXxUS Marks and containers bearing any of the NEXxUS Marks and/or the advertising or display material relating thereto bearing any of the NEXxUS Marks; and



(viii) continuing to perform in any manner whatsoever any infringing acts; and

FURTHER ORDERED, that pending the hearing of plaintiff's application for a preliminary injunction, defendants and their agents, servants, employees, successors and assigns, and all those acting in concert or participation with them, be and they hereby are TEMPORARILY RESTRAINED FROM (a) committing any of the acts set forth in Subparagraphs (a)(i) through (viii) of the preceding decretal paragraphs; and it is

FURTHER ORDERED, that the United States Marshal, his deputy and persons acting under such person's supervision, if readily available, assisted by one or more attorneys or agents of plaintiff, is directed to use reasonable force to search for, photograph, seize and impound forthwith:

(a) any and all guarantees, warranties, circulars, price lists, labels, signs, prints, packages, wrappers, pouches, receptacles, advertising matter, promotional and other material in their possession or control bearing any of the NEXxUS Marks, or each of them, alone or in combination with any other words, or used in connection with the advertising, offering for sale or sale of products not plaintiff's or not made under the authorization and control of plaintiff;

(b) all simulations, reproductions, counterfeits, copies or colorable imitations of the NEXxUS Marks,



including any and all merchandise bearing reproductions of the NEXxUS Marks in defendants' possession, custody or control, including those on or about defendants' premises;

(c) all plates, molds, matrices and other means of making said simulations, reproductions, counterfeits, copies or colorable imitations of the NEXxUS Marks; and

(d) all records relating in any manner to the manufacture, sale or receipt of any merchandise bearing a counterfeit of the NEXxUS Marks in defendants' possession, custody or control, including those located on or about the defendants' premises (see attached list of locations), and shall deliver up same to care and custody of this Court.

FURTHER ORDERED, that all sequestered merchandise and materials shall be held in the custody of the U.S. Marshal at the U.S. Post Office Building, or in the custody of the U.S. Marshal at a warehouse selected by the U.S. Marshal, pending further order of this Court. The United States Marshal shall make, keep and maintain an inventory of all property seized pursuant to this Order.

FURTHER ORDERED that plaintiff's counsel or its agents may photocopy and review any books and records seized pursuant to this Order, that they may not disclose any trade secrets or other confidential information contained in such books and records to plaintiff or any other person pending the hearing of plaintiff's motion to conform the seizure authorized herein.



FURTHER ORDERED that pending the hearing of plaintiff's motion to confirm the seizure authorized herein, the Clerk of this Court is to keep and maintain under seal all papers filed herein, and that public scrutiny of such papers shall not be permitted, subject to defendants' right to access such papers upon presenting the Clerk of this Court with proper identification after the seizure authorized herein has been carried out; and it is further

ORDERED that defendants show cause at the hearing on plaintiff's motion to confirm the seizure authorized herein, why an order should not be entered, pursuant to Rules 30 and 34 of the Federal Rules of Civil Procedure, granting plaintiff expedited discovery of defendants with respect to the manufacture, receipt and sale of hair and skin care products bearing the NEXxUS trade name or trademark including discovery of the source thereof, the creation of such trademarks, the quantity of goods bearing such trademarks ordered, in inventory and sold by defendants, and other matters relevant to this action; and it is further

ORDERED, that plaintiff shall use reasonable precautions to protect the defendants from publicity, by or at the behest of the plaintiff, about this order and any seizure under this order until the OSC hearing.

FURTHER ORDERED, that counsel for plaintiff and their agents shall be permitted immediately to inspect and copy the records documenting the manufacture, sale or receipt of



merchandise bearing any simulation, reproduction, counterfeit, copy or colorable imitation of the NEXxUS Marks and accompany the United States Marshal, his deputy and person acting under such person's supervision, during searching, seizing and impounding provided for herein provided counsel for plaintiff and their agents maintain all trade secrets or other confidential information confidential and shall not disclose information held therein to plaintiff or any third parties except with leave of this Court or to the extent necessary to bring action against other parties identified by such records.

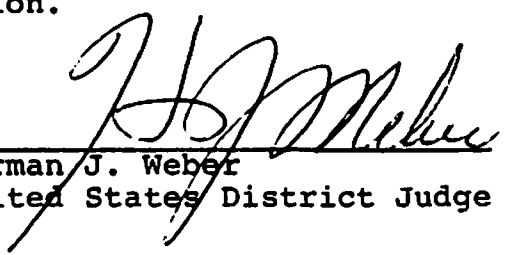
FURTHER ORDERED, that this Temporary Restraining and Seizure Order be and is hereby conditioned upon plaintiff's posting of security in the amount of \$40,000 by 2:00 p.m., October 3, 1985, for the payment of such costs and damages as may be incurred or suffered by any party who was found to be wrongfully restrained or whose goods were wrongfully seized, subject to the U.S. Marshal's right to require plaintiff to increase the amount of the bond if and when the goods seized from defendant have a total wholesale value in excess of the posted security of \$40,000, and it is

FURTHER ORDERED, that sufficient cause appearing herein, personal service of a copy of this Order to Show Cause and the papers upon which it is based being delivered to the defendants by the United States Marshal, or other law officer, or



their agents or designees, at the time of any seizures, as provided herein, shall be sufficient or at any time prior to October 11, 1985; and it is

FURTHER ORDERED, that the defendants shall have to and including October 15, 1985 at 4:00 p.m., within which to file and serve any briefs, affidavits or other evidence in opposition to the motion for preliminary injunction.

  
Herman J. Weber  
United States District Judge

Dated: Cincinnati, Ohio

October 3, 1985

ISSUED: 3:45 P.M. o'clock



DRUG EMPORIUM  
485 East Kemper Road  
Cincinnati, Ohio

8251 Beechmont Avenue  
Cincinnati, Ohio

221 Graceland Boulevard  
Columbus, Ohio

5160 East Main Street  
Columbus, Ohio

5685 Emporium Drive  
Columbus, Ohio

240 North Wilson Road  
Columbus, Ohio

7792 Olen Tangy River Road  
Worthington, Ohio

7760 Olen Tangy River Road  
Worthington, Ohio

# Fidelity and Deposit Company

HOME OFFICE

OF MARYLAND

BALTIMORE, MD. 21203

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

NEXxUS PRODUCTS COMPANY, INC.,

Plaintiff

vs.

DRUG EMPORIUM, INC. and DOES I  
through XXV, inclusive,

Defendants.

No. Cl-85-1609

Undertaking for Temporary  
Restraining Order and Seizure Order

WHEREAS, the above named Plaintiff  
desires to give an undertaking for Temporary Restraining Order and Seizure Order  
as provided by Rule 65 of the Federal Rules of Civil Procedure,

NOW, THEREFORE, the undersigned surety, does hereby obligate itself, jointly and severally, to  
the above named Defendants

under said statutory obligations in the sum of Forty Thousand and no/100  
Dollars (\$ 40,000.00).

It is further agreed by the Surety that in case of default or contumacy on the part of the Principal or  
Surety, the court may, upon notice to them, of not less than ten days, proceed summarily and render judgment  
against them, or either of them, in accordance with their obligation and award execution thereon.

IN TESTIMONY WHEREOF, the said Surety has caused its corporate name and seal to be hereunto  
affixed by its duly authorized officer.

Signed, sealed and dated this 3rd day of October 19 85

Bond No. 9929448

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

The premium charged for this bond  
is \$800.00 Dollars per annum

By Michael D. Libby  
Attorney-in-Fact

The undersigned declares under penalty of perjury that he/she is an attorney in fact for said surety and  
that an unrevoked power of attorney is on file in the office of the Clerk of the above Court or attached hereto.

Michael D. Libby  
Attorney-in-fact



FILED  
KENNETH J. MURPHY  
CLERK

OCT 4 9 04 AM '85

IN THE UNITED STATES DISTRICT COURT ~~U.S. DISTRICT COURT~~  
SOUTHERN DISTRICT OF OHIO ~~SOUTHERN DIST. OHIO~~  
WESTERN DIVISION ~~WEST DIV. CINCINNATI~~

Journal	_____
Motion #	_____
Issue	_____
Card	_____
H/S	_____
Docketed	_____

NEXxUS PRODUCTS COMPANY, INC.,

Plaintiff,

v.

DRUG EMPORIUM, INC. AND DOES I  
THROUGH XXV,

Defendants,

Civil Action

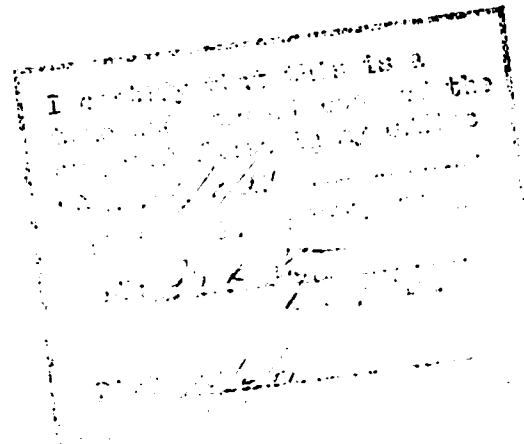
No. C1-85-1609

Judge Weber  
Cincinnati

Hawkins, Bikoff & Newton  
JAMES L. BIKOFF, ESQ.  
220 Montgomery Street  
Penthouse One  
San Francisco, CA 94104  
(415) 397-5631

Wood, Herron & Evans  
BRUCE TITTEL, ESQ.  
THOMAS L. KAUTZ, ESQ.  
2700 Carew Tower  
Cincinnati, Ohio 45202  
(513) 241-2324

Attorneys for Plaintiff  
NEXxUS Products Company, Inc.



TEMPORARY RESTRAINING AND SEIZURE ORDER;  
ORDER TO SHOW CAUSE FOR PRELIMINARY INJUNCTION;  
ORDER FOR SPECIAL APPOINTMENT TO EXECUTE SEIZURE;  
ORDER FOR LEAVE TO TAKE ACCELERATED DISCOVERY

Based upon the pleadings, moving papers and affidavits submitted herein, the Court finds that:

1. The security determined adequate by the Court for the payment of such damages as any person may be entitled to recover as a result of a wrongful seizure or wrongful attempted seizure is the amount of \$40,000.

2. An order other than an ex parte seizure order is not adequate to achieve the purposes of 15 U.S.C. 1114.

3. The plaintiff has not publicized the requested seizure.

4. The plaintiff is likely to succeed in showing that the person against whom seizure is ordered used a counterfeit mark in connection with the sale, offering for sale or distribution of goods.

5. An immediate and irreparable injury will occur if an ex parte seizure without notice is not ordered.

6. The matter to be seized will be located at the places identified in the application.

7. The harm to the plaintiff of denying the application outweighs the harm to the legitimate interests of the persons against whom seizure would be ordered of granting the application.

8. The person against whom seizure would be ordered, or person acting in concert with such persons, would destroy,



move, hide or otherwise make such matter inaccessible to the Court if the plaintiff was to proceed on notice to such persons.

9. Plaintiff manufactures and sells hair and skin care products under the product names "THERAPPE", "ASSURE" and "HUMECTRESS" (the "NEXxUS Products") under its "NEXxUS" trade name and trademark and registered trademark "NATURE & EARTH UNITED WITH SCIENCE", which is registered on the Principal Register of the United States Patent and Trademark Office as Registration No. 1,196,046.

10. The plaintiff has shown good cause for holding a hearing on the motion for preliminary injunction on October 17 and 18, 1985.

11. Plaintiff has complied with 15 U.S.C. §1116(d) (2) by notifying the United States Attorney for the Southern District of Ohio of plaintiff's intent to seek an ex parte seizure order against the defendants.

12. Defendants bought, offered for sale and sold hair and skin care products falsely bearing the "NEXxUS" trade name and trademarks referred to in the Complaint, and threaten to continue such acts unless immediately restrained by order of this Court; and

13. It appearing that, based upon past actions of other counterfeiters in the same position as defendants, that the hair or skin care products in question and/or documents relating to the source of such hair or skin care products will be removed

or destroyed as soon as a given defendant learns that a lawsuit is being filed, and notification is given to third-party suppliers, manufacturers and customers; and

14. It further appearing that the only effective method of preventing infringing "NEXxUS" hair or skin care products from being removed or destroyed and of preserving other possible relevant evidence is to issue an order allowing the seizure of such evidence without notice to the defendants herein; and

15. It further appearing to the Court that the aforesaid acts of the Defendants will cause immediate and irreparable injury, loss and damage to plaintiff, its trade name, trademarks and the valuable goodwill and reputation associated therewith and that such injury, loss and damage is more likely to be sustained by plaintiff if the defendants are given notice of this litigation prior to the issuance of the Temporary Restraining Order and Order of Seizure hereinafter specified and thereby given time to dispose of or move the hair or skin care products bearing or using the aforesaid trademarks, it is hereby

ORDERED, that defendants or their attorneys show cause before the Honorable Herman J. Weber, a Judge of this Court, in Courtroom 836 of the United States Courthouse, U.S. Post Office Building, Cincinnati, Ohio, on October 17 ~~1985~~ 1985, at 10:00 a.m. (the "OSC hearing"), or as soon thereafter as counsel can be heard, why an order should not be entered pursuant to Rules 30,



34, 64 and 65(a) of the Federal Rules of Civil Procedure granting plaintiff the following preliminary injunction relief:

(a) enjoining and restraining defendants and defendants' agents, servants, employees, successors and assigns, and all those acting in concert or participation with them from:

(i) using in any manner the "NEXxUS" trade name and trademark, the NEXxUS product names "THERAPPE", "THERAPY", "ASSURE", "HUMECTRESS", "KERAPHIX", and "BOTANOIL", and the trademark "NATURE & EARTH UNITED WITH SCIENCE" (all of which are hereinafter referred to collectively as "the NEXxUS Marks"), or each of them, alone or in combination with any other word or words, which so resemble any of the NEXxUS Marks so as to be likely to cause confusion, deception or mistake on or in connection with the advertising, offering for sale or sale of any hair or skin care product not manufactured, distributed or sold by plaintiff or not authorized by plaintiff to be sold in connection with any of the NEXxUS Marks;

(ii) passing off, inducing or enabling others to sell or pass off any product as a product produced by plaintiff, which is not plaintiff's or not produced under the control and supervision of plaintiff and approved by plaintiff for sale under any of the NEXxUS Marks as used on hair or skin care products;

(iii) committing any acts calculated to cause purchasers to falsely believe that defendants' products are those sold under the control and supervision of plaintiff, or sponsored by, approved or connected with, or guaranteed by, or produced under the control and supervision of plaintiff;

(iv) further diluting and infringing the rights of plaintiff in and to the NEXxUS Marks and damaging plaintiff's goodwill and business reputation;

(v) otherwise competing unfairly with plaintiff in any manner;

(vi) shipping, delivering, distributing, returning or otherwise disposing of in any manner, hair or skin care products or inventory thereof not manufactured by or for plaintiff, nor authorized by plaintiff to be sold or offered for sale, which bear any of the NEXxUS Marks;

(vii) manufacturing or using any tools, dies, stamping, mixing, embossing, silk screening, molding equipment, or any other apparatus or any and all formulations, designed especially for the manufacture or labeling of counterfeit products bearing any of the NEXxUS Marks and containers bearing any of the NEXxUS Marks and/or the advertising or display material relating thereto bearing any of the NEXxUS Marks; and



(viii) continuing to perform in any manner whatsoever any infringing acts; and

FURTHER ORDERED, that pending the hearing of plaintiff's application for a preliminary injunction, defendants and their agents, servants, employees, successors and assigns, and all those acting in concert or participation with them, be and they hereby are TEMPORARILY RESTRAINED FROM (a) committing any of the acts set forth in Subparagraphs (a)(i) through (viii) of the preceding decretal paragraphs; and it is

FURTHER ORDERED, that the United States Marshal, his deputy and persons acting under such person's supervision, if readily available, assisted by one or more attorneys or agents of plaintiff, is directed to use reasonable force to search for, photograph, seize and impound forthwith:

(a) any and all guarantees, warranties, circulars, price lists, labels, signs, prints, packages, wrappers, pouches, receptacles, advertising matter, promotional and other material in their possession or control bearing any of the NEXxUS Marks, or each of them, alone or in combination with any other words, or used in connection with the advertising, offering for sale or sale of products not plaintiff's or not made under the authorization and control of plaintiff;

(b) all simulations, reproductions, counterfeits, copies or colorable imitations of the NEXxUS Marks,

including any and all merchandise bearing reproductions of the NEXxUS Marks in defendants' possession, custody or control, including those on or about defendants' premises;

(c) all plates, molds, matrices and other means of making said simulations, reproductions, counterfeits, copies or colorable imitations of the NEXxUS Marks; and

(d) all records relating in any manner to the manufacture, sale or receipt of any merchandise bearing a counterfeit of the NEXxUS Marks in defendants' possession, custody or control, including those located on or about the defendants' premises (see attached list of locations), and shall deliver up same to care and custody of this Court.

FURTHER ORDERED, that all sequestered merchandise and materials shall be held in the custody of the U.S. Marshal at the U.S. Post Office Building, or in the custody of the U.S. Marshal at a warehouse selected by the U.S. Marshal, pending further order of this Court. The United States Marshal shall make, keep and maintain an inventory of all property seized pursuant to this Order.

FURTHER ORDERED that plaintiff's counsel or its agents may photocopy and review any books and records seized pursuant to this Order, that they may not disclose any trade secrets or other confidential information contained in such books and records to plaintiff or any other person pending the hearing of plaintiff's motion to conform the seizure authorized herein.



FURTHER ORDERED that pending the hearing of plaintiff's motion to confirm the seizure authorized herein, the Clerk of this Court is to keep and maintain under seal all papers filed herein, and that public scrutiny of such papers shall not be permitted, subject to defendants' right to access such papers upon presenting the Clerk of this Court with proper identification after the seizure authorized herein has been carried out; and it is further

ORDERED that defendants show cause at the hearing on plaintiff's motion to confirm the seizure authorized herein, why an order should not be entered, pursuant to Rules 30 and 34 of the Federal Rules of Civil Procedure, granting plaintiff expedited discovery of defendants with respect to the manufacture, receipt and sale of hair and skin care products bearing the NEXxUS trade name or trademark including discovery of the source thereof, the creation of such trademarks, the quantity of goods bearing such trademarks ordered, in inventory and sold by defendants, and other matters relevant to this action; and it is further

ORDERED, that plaintiff shall use reasonable precautions to protect the defendants from publicity, by or at the behest of the plaintiff, about this order and any seizure under this order until the OSC hearing.

FURTHER ORDERED, that counsel for plaintiff and their agents shall be permitted immediately to inspect and copy the records documenting the manufacture, sale or receipt of

merchandise bearing any simulation, reproduction, counterfeit, copy or colorable imitation of the NEXxUS Marks and accompany the United States Marshal, his deputy and person acting under such person's supervision, during searching, seizing and impounding provided for herein provided counsel for plaintiff and their agents maintain all trade secrets or other confidential information confidential and shall not disclose information held therein to plaintiff or any third parties except with leave of this Court or to the extent necessary to bring action against other parties identified by such records.

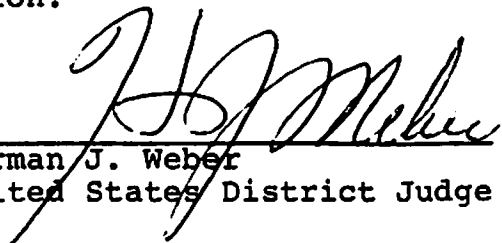
FURTHER ORDERED, that this Temporary Restraining and Seizure Order be and is hereby conditioned upon plaintiff's posting of security in the amount of \$40,000 by 2:00 p.m., October 3, 1985, for the payment of such costs and damages as may be incurred or suffered by any party who was found to be wrongfully restrained or whose goods were wrongfully seized, subject to the U.S. Marshal's right to require plaintiff to increase the amount of the bond if and when the goods seized from defendant have a total wholesale value in excess of the posted security of \$40,000, and it is

FURTHER ORDERED, that sufficient cause appearing herein, personal service of a copy of this Order to Show Cause and the papers upon which it is based being delivered to the defendants by the United States Marshal, or other law officer, or



their agents or designees, at the time of any seizures, as provided herein, shall be sufficient or at any time prior to October 11, 1985; and it is

FURTHER ORDERED, that the defendants shall have to and including October 15, 1985 at 4:00 p.m., within which to file and serve any briefs, affidavits or other evidence in opposition to the motion for preliminary injunction.

  
Herman J. Weber  
United States District Judge

Dated: Cincinnati, Ohio

October 3, 1985

ISSUED: 3:45 P.M. o'clock

**DRUG EMPORIUM**

485 East Kemper Road  
Cincinnati, Ohio

8251 Beechmont Avenue  
Cincinnati, Ohio

221 Graceland Boulevard  
Columbus, Ohio

5160 East Main Street  
Columbus, Ohio

5685 Emporium Drive  
Columbus, Ohio

240 North Wilson Road  
Columbus, Ohio

7792 Olen Tangy River Road  
Worthington, Ohio

7760 Olen Tangy River Road  
Worthington, Ohio



# Fidelity and Deposit Company

HOME OFFICE

OF MARYLAND

BALTIMORE, MD. 21203

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

NEXxUS PRODUCTS COMPANY, INC.,

Plaintiff

vs.

DRUG EMPORIUM, INC. and DOES I  
through XXV, inclusive,

Defendants.

No. C1-85-1609

Undertaking for Temporary  
Restraining Order and Seizure Order

WHEREAS, the above named Plaintiff  
desires to give an undertaking for Temporary Restraining Order and Seizure Order  
as provided by Rule 65 of the Federal Rules of Civil Procedure.

NOW, THEREFORE, the undersigned surety, does hereby obligate itself, jointly and severally, to  
the above named Defendants

under said statutory obligations in the sum of Forty Thousand and no/100-----  
Dollars (\$ 40,000.00 ).

It is further agreed by the Surety that in case of default or contumacy on the part of the Principal or  
Surety, the court may, upon notice to them, of not less than ten days, proceed summarily and render judgment  
against them, or either of them, in accordance with their obligation and award execution thereon.

IN TESTIMONY WHEREOF, the said Surety has caused its corporate name and seal to be hereunto  
affixed by its duly authorized officer.

Signed, sealed and dated this 3rd day of October 1985

Bond No. 9929448

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

The premium charged for this bond  
is \$800.00 Dollars per annum

By Michael D. Silbey  
Attorney-in-Fact

The undersigned declares under penalty of perjury that he/she is an attorney in fact for said surety and  
that an unrevoked power of attorney is on file in the office of the Clerk of the above Court or attached hereto.

Michael D. Silbey  
Attorney-in-fact

## RETURN OF SERVICE

CERTIFIED MAIL

Service of the Summons and Complaint was made by not

DATE

MAILED ON  
October 8, 1985

C-1-85-1609

NAME OF SERVER

Bruce Tittel

TITLE

Attorney

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served \_\_\_\_\_☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: \_\_\_\_\_

☒ Other (specify) Served defendant Drug Emporium, Inc., c/o Philip I. Wilber, 1035 Clubview Boulevard North, Worthington OH 43085, Summons, copy of Complaint and Form 18-A in duplicate, by Certified Mail Return Receipt Requested first-class United States Mail. A copy of Acknowledgment of Receipt of Form 18-A is attached hereto and made a part of this return.

## STATEMENT OF SERVICE FEES

TRAVEL

SERVICES

TOTAL

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

Date

10/28/85

Signature of Server Bruce TittelWood, Herron & Evans  
2700 Carew Tower

Cincinnati OH 45202

Address of Server

COPY OF SEIZURE ORDER & T.R.O., LEFT  
WITH P. WILBER, PRES. OF DRUG EMPORIUM  
ON Oct 8, 1985

Bruce Tittel

Judge	4815
Mag.	
Journal	
Motion #	
Issue	
Card	
N/S	
Booked	

FILED  
KENNETH J. MURPHY  
CLERK  
Oct 29 11 37 AM '85  
U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
WEST DIV. CINCINNATI

9A



## SUMMONS IN A CIVIL ACTION

CIV 1 (Rev. 10/82)

<b>United States District Court</b>	DISTRICT SOUTHERN DISTRICT OF OHIO
NEXxUS PRODUCTS COMPANY, INC.,  Plaintiff,  v.  DRUG EMPORIUM And DOES I THROUGH XXV,  Defendants.	DOCKET NO. <b>C-1-85-1609</b>
	TO: (NAME AND ADDRESS OF DEFENDANT)  Drug Emporium 485 East Kemper Road Cincinnati, OH 45246 <b>WEBER, J.</b>

YOU ARE HEREBY SUMMONED and required to serve upon

## PLAINTIFF'S ATTORNEY (NAME AND ADDRESS)

Thomas L. Kautz & Bruce Tittel  
 Wood, Herron & Evans  
 2700 Carew Tower  
 Cincinnati OH 45202  
 (513) 241-2324

an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

CLERK  <b>Kenneth J. Murphy, Clerk</b>	DATE  <b>10/4/85</b>
(BY) DEPUTY CLERK  <i>Daniel J. Lyons, Jr.</i>	





UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

NEXxUS PRODUCTS COMPANY, INC.

Plaintiff

-v-

DRUG EMPORIUM, INC. AND DOES I  
THROUGH XXV,

Defendants

Civil Action No. C1-85-1609

Notice and Acknowledgment  
of Receipt of Summons  
and Complaint

Form 18-A

NOTICE

Drug Emporium, Inc.  
To: c/o Philip I. Wilber, 1035 Clubview Boulevard North, Worthington  
(insert the name and address of the person to be served) OH 43085

The enclosed summons and complaint are served pursuant to Rule 4(c)  
(2)(C)(ii) of the Federal Rules of Civil Procedure.

You must complete the acknowledgment part of this form and return  
one copy of the completed form to the sender within 20 days.

You must sign and date the acknowledgment. If you are served on  
behalf of a corporation, unincorporated association (including a partner-  
ship), or other entity, you must indicate under your signature your  
relationship to that entity. If you are served on behalf of another  
person and you are authorized to receive process, you must indicate  
under your signature your authority.

If you do not complete and return the form to the sender within  
20 days, you (or the party on whose behalf you are being served) may  
be required to pay any expenses incurred in serving a summons and com-  
plaint in any other manner permitted by law.

If you do complete and return this form, you (or the party on whose  
behalf you are being served) must answer the complaint within 20 days.  
If you fail to do so, judgment by default will be taken against you  
for the relief demanded in the complaint.

I declare, under the penalty of perjury, that this Notice and  
Acknowledgment of Receipt of Summons and Complaint was mailed on  
October 8, 1985.

  
Bruce Tittel  
Signature

10/8, 1985